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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,431	12/27/2001	Steve J. McKinnon	7000-062	1726
27820	7590	03/01/2005	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			HOSSAIN, TANIM M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,431

Applicant(s)

MCKINNON, ET AL.

Examiner

Tanim Hossain

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. For example, in claim 1, the term “user” is ambiguous and does not delineate what the user is using.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-14 are rejected under 35 U.S.C. 101 because the claims set forth non-statutory subject matter for failing to change physical matter. For example, the contents of claim 1 can be carried out by hand.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2145

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 11-22, 25-34, 37, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyer (2002/143876).

As per claims 1-8, 11-22, 25-34, 37, and 38, Boyer teaches:

1. A method comprising:
 - a) receiving state information bearing on presence of a user (paragraph 0032);
 - b) creating service logic based on the state information, the service logic configured to instruct an associated presence service to control communications associated with the user based on the presence of the user (0033-0038); and providing the service logic to the presence service (0032).
2. The method of claim 1 wherein the presence of the user relates to at least one of the group consisting of physical presence, availability, and status of the user or a device associated with the user (0032).
3. The method of claim 1 wherein the service logic is configured to instruct the presence service to register a first communication device associated with the user to receive communications when the state information is a first state (0036, 0038, 0041).

4. The method of claim 3 wherein the service logic is configured to instruct the presence service to register a second communication device associated with the user to receive communications when the state information is a second state (0041).
5. The method of claim 1 wherein the state information is provided to the presence service with the service logic (0170).
6. The method of claim 1 wherein the state information indicates whether a screen saver is active or inactive (0041).
7. The method of claim 1 wherein the state information indicates whether the user is using a device (0032).
8. The method of claim 1 wherein the state information indicates whether a device associated with the user is activated (0032).
11. The method of claim 1 wherein the service logic is active and therefore configured to cause the presence service to immediately react in a manner to control communications associated with the user (0041, 0071-0075).
12. The method of claim 1 wherein the service logic is passive and therefore configured to cause the presence service to react in a manner to control communications associated with

the user upon the presence service reacting to a request bearing on communications with the user (0031, 0041).

13. The method of claim 1 further comprising executing the service logic at the presence service to control communications associated with the user (0041).
14. The method of claim 13 wherein the executing step further comprises controlling the communications associated with the user based on the service logic in response to an application attempting to communicate with the user (0041).

Claims 15-22, 25, and 26; and claims 27-34, 37, and 38 are rejected on the same bases as claims 1-8, 11, and 12 respectively, as the claims in question constitute a system and medium for the implementation of the method of claims 1-8, 11, and 12 respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 23, 24, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer in view of McDowell (2002/0035605).

As per claim 9, Boyer teaches the method of claim 1, but does not specifically teach the state information indicating whether the user is physically present in an area. McDowell teaches the use of a GPS system to locate whether a user is physically present in an area (paragraph 0010). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to monitor a user's whereabouts, as taught by McDowell in the system of Boyer. The motivation for doing so lies in the fact that using a GPS system, in addition to the variety of methods to investigate the user's presence would add further diversity to Boyer's invention. Both inventions are from the same field of endeavor, namely the easy communication between users, utilizing a presence detection system.

As per claim 10, Boyer teaches the method of claim 1, but does not specifically teach the state information indicating whether the user is physically proximate to a device. McDowell teaches the use of a GPS system to locate whether a user is physically present in an area, and thus proximate to a device (paragraph 0010). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to monitor a user's whereabouts, as taught by McDowell in the system of Boyer. The motivation for doing so lies in the fact that using a GPS system, in addition to the variety of methods to investigate the user's presence would add further diversity to Boyer's invention. Both inventions are from the same field of endeavor, namely the easy communication between users, utilizing a presence detection system.

Claims 23, 24, and 35, 36 are rejected on the same bases as claims 9 and 10, as the claims in question constitute a system and medium of implementing the method of claim 9 and 10 respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

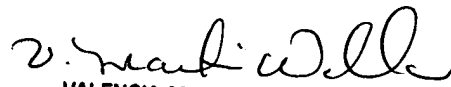
- a. Polychronidis (U.S. 2003/0018704) teaches a network presence location agent.
- b. Hackbarth (U.S. 2002/0143877) teaches a form of network collaboration services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanim Hossain whose telephone number is 571/272-3881. The examiner can normally be reached on 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571/272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tanim Hossain
Patent Examiner
Art Unit 2145


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SUPERVISORY PATENT EXAMINER
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